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December 15, 2014

VIA ECF

Hon. Alison J. Nathan
United States District Judge
Southern District of New York
500 Pearl Street, Rm. 615
New York, New York 10007

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**In re Aereo, Inc., 14 Civ. 9829 (AJN) (HBP) and Am. Broad. Cos., Inc., et al. v. Aereo, Inc.,
12 Civ. 1540 (AJN) (HBP) [consol.] (related cases)**

Dear Judge Nathan:

This letter is submitted in connection with the above-captioned related cases, pursuant to Rule 1A of this Court's Individual Practices, to address a scheduling issue.

On November 20, 2014, only one week after the Court's Order establishing the process by which this Court would finally adjudicate Broadcasters'¹ copyright infringement case against Aereo, Inc. on the merits in *Am. Broad. Cos., Inc., et al. v. Aereo, Inc.*, 12-cv-1540, Dkt. 352 ("Infringement Action"), Aereo filed a petition for bankruptcy under chapter 11 of title 11 of the United States Code, setting forth that it may reorganize or seek to sell its assets. *See Bkcy. Case No. 14-13200 (SHL)* ("Chapter 11 Case"), Dkt 1. Contemporaneous with the filing of that petition, Aereo filed numerous motions in the bankruptcy court. The day after it filed for bankruptcy, Aereo filed a motion for approval of procedures to sell its assets, which is currently set to be heard on December 19, 2014 by Judge Lane. Chapter 11 Case, Dkt. 15. Aereo's bankruptcy filing stayed proceedings in the Infringement Action. Infringement Action, Dkt. 353.

On December 11, 2014, Broadcasters filed in the bankruptcy court a motion to lift the stay and a motion to withdraw the reference to the bankruptcy court with respect to both the motion to lift the stay and Aereo's sale procedure motion ("Withdrawal Motion"). *See Chapter 11 Case, Dkts. 47-49.* The Withdrawal Motion was then transferred to the District Court and the docket reflects the matter was assigned this morning to Your Honor as related to the Infringement Case. *See District Court, 14-cv-09829 (AJN).* Broadcasters believe Your Honor

¹ As used in this letter, "Broadcasters" includes all Plaintiffs in *Am. Broad. Cos., Inc., et al. v. Aereo, Inc.*, 12 Civ. 1540 (AJN) (HBP) (S.D.N.Y.) [consol.] as well as KSTU, LLC, KUTV Licensee, LLC and Fox Broadcasting Company.

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should decide the merits of the remaining copyright issues now and rule on the Withdrawal Motion before the bankruptcy progresses further. *See id.*, Dkt. 1 (Broadcasters' Motion to Withdraw Reference of the Stay Relief Motion and Memorandum in Support) at 5-12.

Aereo does not agree. It instead filed a Response to the Notice of Related Cases stating that this Court need not hear the Withdrawal Motion. *See id.*, Dkt. 6. Common sense and efficiency considerations, among others, counsel in favor of this Court, which is deeply familiar with the parties and copyright issues, deciding the Withdrawal Motion. Aereo nonetheless claims the urgency of its sale procedure motion trumps all and it should be heard on December 19. It has refused to adjourn that date, even by a few days. It admits, however, that it has no stalking horse bid, the first proposed sales process deadline is not until mid-February, 2015, and Aereo is trying to reorganize and, therefore, may not ever sell its assets pursuant to its sale procedure motion.

Aereo's position has required Broadcasters to make this request that the Court set a hearing anytime this week before December 19 to hear their Withdrawal Motion. As to the substance of the Withdrawal Motion, Aereo has stated it is prepared to file opposition papers at any time. Taking Aereo at its word, expedition will not cause it any prejudice. Therefore, Broadcasters respectfully request that this Court schedule a hearing on their Withdrawal Motion and are available, any day and at any time, this week. If the Court's calendar does not permit it to set a hearing before December 19, 2014, then Broadcasters respectfully request that the Court set a hearing as soon thereafter as possible.

This morning, Broadcasters specifically requested Aereo to participate in a joint letter; it refused, opting to send its own letter to the Court.

Respectfully submitted,



Bruce P. Keller

cc: All Counsel of Record

No showing has been made necessitating a hearing or expedited review. Accordingly, the Broadcasters' request for expedited consideration of their Withdrawal Motion is DENIED. Pursuant to Local Rule 6.1, Aereo's opposition to the Withdrawal Motion is due on or before December 26, 2014. The Broadcasters' reply, if any, is due one week after the opposition is served. The Court will indicate if oral argument is required. Otherwise, the Withdrawal Motion will be decided by this Court upon being fully briefed and in due course. This resolves Dkt. No. 7.

SO ORDERED:

HON. ALISON J. NATHAN
UNITED STATES DISTRICT JUDGE

12/16/14